



**US Army Corps
of Engineers.**

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco CA 94105-2197

NUMBER: 29393N DATE: March 4, 2005
RESPONSE REQUIRED BY: April 4, 2005

PERMIT MANAGER: Carol Heidsiek

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1. INTRODUCTION: Mr. Robert Vogt, of the Pacific Lumber Company (PALCO) P.O. Box 37 Scotia, California 95565, ((707)764-2222) has applied for a U.S. Army Corps of Engineers (Corps) permit to mine gravel from the following sites on the Eel River: Scotia Bar, Upper/Lower Truck Shop Bar, Dinner Creek Bar, Three-mile Bridge Bar, Elinor Bar, Larabee Bar, South Fork Bar, Bowlby Bar, Vroman Bar, and Maynard Bar. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Project Site: The project is located along approximately 25 miles of the Main Fork of the Eel River between the cities of Scotia and McCann on property owned or leased by PALCO at: Scotia Bar (River Mile 22), Upper/Lower Truck Shop Bar (River Mile 23), Dinner Creek Bar (River Mile 24), Three-mile Bridge Bar (River Mile 25), Elinor Bar (River Mile 27.5), Larabee Bar (River Mile 36), South Fork Bar (River Mile 41), Bowlby Bar (River Mile 42), Vroman Bar (River Mile 44), and Maynard Bar (River Mile 45). The project locations

are described further in the enclosed Attachment A (January 25, 2005) of the project application and illustrated on the attached drawing entitled: "Plan - Middle Mainstem Eel River" (February 14, 2005), Humboldt County, California.

Project Description: The proposed areas of extraction and monitoring sections are shown in the attached drawings for each of the ten gravel bars (February 14, 2005). The applicant would extract gravel and sand and complete gravel mining/work associated with these activities. This would include such activities as: temporary stock piling of gravel in a dry section of the stream and construction of temporary cofferdams and road crossings. Gravel would be mined annually for five years from the specified bars.

Extraction would be by one or more of the following methods: skimming, horseshoe pits, alcoves, trenches, and wetland pits. Techniques would be similar to those used since 1996 as described in Attachment A of the permit application (January 25, 2005), following review and approval by the County of Humboldt Extraction Review Team (CHERT), the Corps, and the

National Marine Fisheries Service (NOAA).

Additionally, the upstream end of the bar (head-of-bar) would not be mined or otherwise altered by the proposed action. The minimum head-of-bar is defined as that portion of the bar that extends from at least the upper third of the bar to the upstream end of the bar as exposed at summer low flow (minimum head-of-bar buffer). Also, a minimum skim floor would be established to aid in channel confinement at low flows when fish passage is most hindered. This would be determined by one of the three following methods: the elevation of the 35% exceedence flow, a two foot vertical offset from the adjacent riffle crest thalweg, or a two foot vertical offset from the adjacent summer low flow water elevation. Finally, the Dinner River Bar temporary crossing would be placed after June 30 and any other river bar crossings would be placed after June 15, contingent on approval by NOAA Fisheries. All crossings and associated fills would be removed after excavation ceases, but before October 15. An extension to the October 15 deadline may be granted contingent on weather conditions and approval by NOAA Fisheries.

Each of the above-mentioned bars may be authorized for up to 30,000 cubic yards (cy) of extraction depending on winter recruitment levels and review/input by CHERT and approval by NOAA Fisheries. The attached Table 1. - "Summary of Gravel Bar Location and Proposed Quantity of Extraction," summarizes the gravel bar locations, sizes and extraction levels. Although 30,000 cy may be extracted per bar per year, this amount will not exceed a

combined total of 150,000 cy per year.

In addition to this Section 404 permit process, the gravel operations also receive an annual review by California Department of Fish and Game (CDFG), CHERT, NOAA Fisheries, and the Corps. Final extraction plans have not been included in this application process since the final plans depend upon the available gravel recruited during the winter high flows. Final plans will be provided to the agencies in the spring as part of each annual review process.

Purpose and Need: The basic purpose of this project is to mine gravel from the above mentioned gravel bars along the Eel River. The gravel would be used by PALCO for restoration projects, haul roads, log landings, log storage areas, and railroad beds. The town of Scotia also uses the gravel for engineering projects and in the mill complexes. Also, PALCO may sell permission to extract gravel for commercial sale, from its gravel bars.

Impact: The project will result in the placement of up to 600 square feet of fill material into Corps jurisdictional waters, to create the low water bridge at Dinner Creek See attached drawing entitled: "Plan and Sections for Temporary Bridge Crossing," dated January 19, 2005. During the installation and removal of the bridge and abutments, a minimal amount of native aggregate and fine sediment may be discharged into the low flow channel.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of

1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The attached drawings delineate the project areas and monitoring sections. The applicant plans to extract gravel and sand and complete gravel mining and work associated with these activities, such as temporary stock piling of gravel in a dry section of the stream and construction of temporary coffer dams and road crossings.

Impacts to waters of the United States, including wetlands, will be avoided or minimized through the use of practicable alternatives. Reasonable compensation for unavoidable adverse impacts to waters of the United States will be required. Documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA):

Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Federally listed aquatic

species currently identified as potentially impacted by the proposed project include: the threatened California Coastal Chinook salmon (*Oncorhynchus tshawytscha*), Southern Oregon/Northern California Coasts coho salmon (*Oncorhynchus kisutch*), and northern California steelhead trout (*Oncorhynchus mykiss*). The proposed project area includes critical habitat for coho salmon and proposed critical habitat for Chinook salmon and steelhead trout. Federally listed terrestrial species currently identified as potentially impacted by the proposed project include: the threatened western snowy plover (*Charadrius alexandrinus nivosus*) and northern spotted owl (*Strix occidentalis caurina*) and the endangered marbled murrelet (*Brachyramphus marmoratus*).

Magnuson-Stevens Fisheries Conservation and Management Act:

NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) for coho and Chinook salmon, in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Specific EFH concerns associated with this proposal involve impacts to habitat within the EFH. Coordination with the NOAA Fisheries in regard to EFH will be initiated concurrently with the ESA consultation, if necessary.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the

Corps with evidence that he has submitted a valid request for State water quality certification to the North Coast Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403; by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). The applicant states that there are no practicable alternatives for his project. An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water or wetland dependent.

Furthermore, impacting wetlands, will be avoided or minimized through the use of practicable alternatives. Reasonable compensation for unavoidable adverse impacts to waters of the United States will be required.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State

and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS:

Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by

contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Carol Heidsiek of our office at telephone 707-443-0855 or E-mail: Carol.A.Heidsiek@spd02.usace.army.mil. Details on any changes of a minor nature, which are made in the final permit action, will be provided upon request.

ATTACHMENT A

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT (404)

Block 16 – Location Descriptions (Ten Sites)

Scotia Bar, River Mile 22, Sections 7 & 18, T1N, R1E, HB&M (Scotia Quad)
Upper/Lower Truck Shop Bar, River Mile 23, Sections 17 & 20, T1N, R1E, HB&M (Scotia Quad)
Dinner Creek Bar, River Mile 24, Sections 20 & 21, T1N, R1E, HB&M (Scotia Quad)
Three-Mile Bridge Bar, River Mile 25, Section 21, T1N, R1E, HB&M (Scotia Quad)
Elinor Bar, River Mile 27.5, Sections 23 & 26, T1N, R1E, HB&M (Scotia Quad)
Larabee Bar, River Mile 36, Section 3, T1S, R2E, HB&M (Redcrest Quad)
South Fork Bar, River Mile 41, Section 26, T1S, R2E, HB&M (Weott Quad)
Bowlby Bar, River Mile 42, Sections 22, 26, & 35 T1S, R2E, HB&M (Weott Quad)
Vroman Bar, River Mile 44, Section 30 T1S, R3E, HB&M (Weott Quad)
Maynard Bar, River Mile 45, Sections 29 & 32 T1S, R3E, HB&M (Myers Flat Quad)

Please refer to Dwg GE0420-2400-01

Block 17 – Direction to Sites (Ten Sites)

Scotia Bar is accessed through the Company owned town of Scotia, CA. Exit Highway 101 at the North Scotia exit, turn left and proceed south approx. 0.4 mi., turn right onto Bridge St. and proceed west approx. 500 ft, turn left onto Williams St. and proceed south approx. 0.7 mi. to Carpenter Field and Fireman's Park, turn right and follow the dirt access road onto the bar.

Upper/Lower Truck Shop Bar is accessed by exiting Highway 101 at the South Scotia exit, turn left and proceed east on the frontage road approx. 0.3 mi., turn right, cross the R/R tracks and proceed through Granite Construction's yard directly to the access road onto the bar.

Dinner Creek Bar is accessed by exiting Highway 101 at the Stafford exit located approx. 2.7 mi. south of Scotia. Turn right at the stop sign and proceed south approx. 750 ft., turn right onto the Company owned haul road and proceed west approx. 1.4-mi. From this point, proceed along a trail for approx. 0.25-mi. to the bar. This bar can also be accessed by fording the river from the lower end of Three-mile Bridge Bar.

Three-Mile Bridge Bar is accessed by exiting Highway 101 at the South Scotia exit, turn left and proceed east on the frontage road approx. 1.0 mi., turn right and proceed along a Company owned haul road approx. 0.3 mi. directly to the access road to the bar.

Elinor Bar is accessed by exiting Highway 101 at the Shively turn-off located approx. 2.0 mi. south of Scotia. Proceed east on Shively Road approx. 2.7 mi. Turn right and proceed along a Company owned haul road approx. 0.7 mi. directly to the bar.

Larabee Bar is accessed by exiting Highway 101 at the Pepperwood exit located approx. 7.3 mi. south of Scotia. Cross under the highway and proceed 0.2 mi. to The Avenue of the Giants. Turn right at the stop sign and proceed south approx. 2.2 mi., turn left onto the Holmes Flat Road and proceed east approx. 1.8 mi. directly onto the bar.

South Fork Bar is accessed by exiting Highway 101 at the Bull Creek exit located approx. 14.6 mi. south of Scotia. Cross under the highway and proceed south on The Avenue Of The Giants approx. 0.2 mi., turn left at Founders Grove and proceed east on the Camp Grant/McCann Road approx. 0.5 mi. Turn left onto the Company owned haul road and proceed directly to the bar.

Bowlby Bar is accessed by exiting Highway 101 at the Bull Creek exit located approx. 14.6 mi. south of Scotia. Cross under the highway and proceed south on The Avenue Of The Giants approx. 0.2 mi., turn left at Founders Grove and proceed east on the Camp Grant/McCann Road approx. 0.5 mi. Turn left onto the Company owned haul road and proceed onto South Fork Bar. Follow the haul road upstream to the low water bridge (during summer months), turn right immediately upon crossing the bridge and continue upstream directly to the bar. Gaining access to this site in the winter months is difficult but possible by following a system of County roads and Company owned haul roads beginning at the Shively turn-off.

Vroman Bar is accessed by exiting Highway 101 at the Bull Creek exit located approx. 14.6 mi. south of Scotia. Cross under the highway and proceed south on The Avenue Of The Giants approx. 0.2 mi., turn left at Founders Grove and proceed east on the Camp Grant/McCann Road approx. 3.9 mi. Turn left just prior to crossing the R/R tracks and follow the Company owned haul road directly to the bar.

Maynard Bar is accessed by exiting Highway 101 at the Bull Creek exit located approx. 14.6 mi. south of Scotia. Cross under the highway and proceed south on The Avenue Of The Giants approx. 0.2 mi., turn left at Founders Grove and proceed east on the Camp Grant/McCann Road approx. 5.3 mi. Turn left and follow the Company owned haul road directly to the bar.

Block 18 – Nature of Activity (Ten Sites)

Annual mining of gravel and associated fines from within the bank-full river channel and from the specified gravel bars along the mainstem (24-mi. reach) of the Eel River in Humboldt County, California. Extraction is by one or more of the following methods: Skimming, horseshoe pits, alcoves, trenches, and wetland pits. The following is a description and history of mining activity at the ten **commercially permitted** sites since 1996.

Scotia Bar was mined (skimmed) in 2003 for a total of 14,634 cu yd.

Upper/Lower Truck Shop Bar has been mined several times during this time period. 1998-skim-18,000 cu yd, 1999-skim-14,869 cu yd, 2000-skim-17,015 cu yd, 2002-skim/trench- 25,480 cu yd, 2003-skim/trench, 24,195 cu yd. This computes to a total of 99,559 cu yd since 1996.